

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

OSCAR YANES, GAGIK MKRTCHIAN,
and WENDELL BAEZ LOPEZ, on behalf
of themselves and all those similarly situated,

Petitioners-Plaintiffs,

-v.-

DANIEL W. MARTIN, Warden, Donald
W. Wyatt Detention Facility; CHAD F.
WOLF, Acting Secretary, U.S. Department
of Homeland Security; MATTHEW T.
ALBENCE, Acting Director, U.S.
Immigration and Customs Enforcement;
TODD M. LYONS, Acting Field Office
Director, U.S. Immigration and Customs
Enforcement; and CENTRAL FALLS
DETENTION FACILITY
CORPORATION,

Respondents-Defendants.

Civil Action No.

20-CV-216-MSM-PAS

**OBJECTION TO RELEASE OF DETAINEES PEREZ-SANTIAGO AND GRANDA
QUIZHPI**

On August 6, 2020, Petitioners submitted notices requesting bail hearings for two detainees: Rafael Perez-Santiago and Cristian Granda Quizhpi. (Dkt. Nos. 336 and 338). As discussed in previous filings, the Federal Respondents oppose these bail applications because circumstances have significantly changed in the two months that have elapsed since this Court's Order of June 2, 2020 (Dkt. No. 59) granting expedited bail hearings. For the reasons detailed in Federal Respondents' motion to de-certify the class (Dkt. Nos. 271 and 328), this Court should conclude that the current conditions at Wyatt do not establish an ongoing constitutional violation. Further, Petitioners have declined to seek bail for either detainee for several weeks (and for over a month in the case of Mr. Granda Quizhpi) while these detainees have been housed at Wyatt facility

in single cells, with ready access to (and receipt of) medical care. (*See* July 2 and July 13, 2020 Notices (Dkt. Nos. 289 and 319), providing notice of the placement at Wyatt of Mr. Granda Quizhpi and Mr. Perez-Santiago, respectively). The medical records for Mr. Granda Quizhpi and Mr. Perez-Santiago were provided to Petitioners on July 15 and July 23, 2020, respectively. Petitioners' actions demonstrate that conditions at Wyatt have been, and continue to be, constitutionally adequate.

Should the court determine that bail hearings should be held for these two detainees at this time, the Federal Respondents oppose the applications on the merits, as detailed below. It is ICE's position that, in addition to the reasons why either detainee would not be able to establish a Fifth Amendment violation with respect to his continued detention at Wyatt, Petitioners cannot show a specific compelling reason for the release of either detainee in light of the community safety and flight risks associated with release.

The Federal Respondents reserve the right to provide additional documentation regarding Mr. Perez-Santiago and Mr. Granda Quizhpi's criminal history if and when a bail hearing is scheduled. Federal Respondents additionally state that ICE has made the following representations regarding information available to ICE:

- **Rafael Perez-Santiago** (age 53) – citizen of Dominican Republic
 - Mr. Perez-Santiago's criminal history includes the following: in March 2015, he was charged with distribution of a class A drug and conspiracy to violate the Controlled Substances Act, which were dismissed. In November 2015, he was charged with possession of a class B controlled substance. In September 2019, he was charged with assault and battery on a police officer, trafficking cocaine, trafficking heroin, and conspiracy to violate the Controlled Substances Act, which remain pending. According to the police report, police officers obtained search warrants to search Mr. Perez-Santiago's residence, as well as a nearby second location, and when they encountered Mr. Perez-Santiago while attempting to execute the search warrant, Mr. Perez-Santiago began punching the police officer. According to the criminal complaint and police report, among other items, police officers ultimately observed and/or seized approximately 487 grams of cocaine,

over 90 grams of heroin, containers of creatine (cutting agent), several working digital scales, Tyvek suit with two ventilation masks, and two rolls of plastic packaging material. A month later, in October 2019, Mr. Perez-Santiago was arrested for, among other charges, distribution of a class A drug, distribution of a class B drug, possession with intent to distribute a class A drug, and failing to stop for a police officer, which remain pending. The police report from the incident indicates that after completing a drug transaction, Mr. Perez-Santiago operated his vehicle at a high rate of speed and made a number of improper lane changes while police officers attempted to cause him to stop his vehicle by using emergency lights and sirens. Ultimately, Mr. Perez-Santiago stopped his vehicle and was taken into custody.

- Mr. Perez-Santiago is subject to mandatory detention pursuant to 8 U.S.C. § 1226(c). In addition to the criminal history information above, ICE's records also indicate that Mr. Perez-Santiago has been attempting to use the identity of a U.S. citizen, Luis A. Rivera, which ICE considers to increase the risk of flight. On October 16, 2012, Mr. Perez-Santiago obtained a Massachusetts driver's license using the name (Luis Rivera), date of birth, and social security number of a U.S. citizen, and he has been proceeding under Mr. Rivera's name, date of birth and social security number in connection with pending criminal proceedings. Mr. Perez-Santiago's immigration court proceedings are pending.

- **Cristian Edison Granda Quizhpi** (age 19) – citizen of Ecuador

- Mr. Granda Quizhpi's criminal history includes the following: on May 22, 2020, Mr. Granda Quizhpi was arrested for first degree child molestation sexual assault, which remains pending. According to the police report, the alleged victim is the 13 year-old niece of Mr. Granda Quizhpi.
- Mr. Granda Quizhpi is being detained under 8 U.S.C. § 1226(a). His initial hearing in immigration court was July 30, 2020, at which time his attorney requested a continuance. His next immigration court date is August 13, 2020, and he is entitled to request a custody redetermination before the immigration court at that time.

The Federal Respondents further submit the attached Exhibits, which are additional, underlying materials relevant to the Court's determination of whether bail is appropriate for the above detainees. The Federal Respondents note that additional, underlying materials were already filed with the Court with respect to detainee Granda Quizhpi on July 6, 2020 (Dkt. No. 290).

Attachment:	Description of Exhibit:
1	Perez-Santiago Ex. A – September 2019 Police Report
2	Perez-Santiago Ex. B – Malden, Mass Criminal Case Documents
3	Perez-Santiago Ex. C – East Boston, Mass Criminal Case Documents

4	Perez-Santiago Ex. D – Luis Rivera Puerto Rican License
5	Perez-Santiago Ex. E – Luis Rivera Massachusetts License

Dated: Providence, Rhode Island
August 7, 2020

Respectfully submitted,

AARON L. WEISMAN
United States Attorney

By: /s/ Bethany N. Wong
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CERTIFICATE OF SERVICE

I hereby certify that, on August 7, 2020, I caused the foregoing document to be filed by means of this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Federal Rule of Civil Procedure 5(b)(2)(E) and Local Rules Gen 305 and 309(b).

By: /s/ Bethany N. Wong
Bethany N. Wong
Assistant United States Attorney